

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1512 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

KUNVERJI NARAN PATEL

Versus

CHIEF CONTROLLING REVENUE AUTHORITY

Appearance:

MR NALIN K THAKKER for Petitioner
RULE SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 26/09/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner has challenged the order dated 6.11.1999 (Annexure "D") passed by the Chief Controlling Revenue Authority, Gujarat State requiring the petitioner to pay additional stamp duty of Rs.18,050/- and the penalty of Rs.250/- on a document bearing No. 2435 which was presented for registration by the petitioner herein on 4.5.1995 before the

Sub-Registrar at Bhuj in respect of the land bearing survey No. 105, Plot No. 9157 at Bhuj. The area mentioned in the sale deed is 4 Hectares and 15 Ares. i.e. 10 Acres and 10 Gunthas.

2. The sale deed was executed and presented for registration on 4.5.1995. The document mentioned that the consideration was Rs.2,00,000/- and hence the stamp duty of Rs.20,800/- was paid. The matter was taken for consideration of the market value and a show cause notice was issued to the petitioner. After hearing the petitioner's reply, the Deputy Collector fixed the market value at Rs.3,32,000/- and additional stamp duty of Rs.13,730/- and penalty of Rs.250/- were ordered to be recovered from the petitioner. The deficit stamp duty plus penalty of Rs.13,980/- was paid.

However, the Chief Controlling Revenue Authority took the matter in suo motu revision under Section 53-A of the Bombay Stamp Act on 9.9.1998 as per the notice at Annexure "B" to the petition. The petitioner appeared and pointed out that the petitioner had already paid additional stamp duty of Rs.13,730/- plus penalty of Rs.250/- on 24.11.1997 as the petitioner required the document to be returned to him immediately. However, the Chief Controlling Revenue Authority passed the impugned order dated 6.11.1999 (Annexure "D") holding that the market value of the property was Rs.3,73,500/- and requiring the petitioner to pay additional stamp duty of Rs.18,050/- plus the penalty of Rs.250/-.

3. Rule was issued on 15.3.2000 but none appears inspite of service of Rule. On previous occasions also none appeared for the respondents and, therefore, the Court adjourned the hearing of this petition. Today the situation is no better and none appears for the respondents even in the second round. Hence, the petition is taken up for final disposal.

4. Mr Nalin K Thakker, learned counsel for the petitioner submits that as per the figures given by the Deputy Collector (Stamp Duty Valuation) at Bhuj in their letter dated 23.12.1999 (Annexure "E"), the value of the land in question was Rs.40,000/- per hectare in the year 1995 and it was subsequently that the rates in the jantris were revised by Jantri dated 15.6.1998. It is further stated in the said letter that the rate as per the jantri in force upto 31.10.1999 was Rs.70,000/- per hectare.

It is submitted that when the sale deed came to

be executed in the year 1995, the jantris which were in force in 1995 have to be considered and as per that rate the consideration mentioned in the document at Rs.2,00,000/- was more than sufficient and, therefore, neither the Chief Controlling Revenue Authority nor the Deputy Collector could have demanded the additional stamp duty.

It appears that the respondent authorities did not look at the area of the land in question which was 4 Hectares and 15 Ares. Hence, even applying the rate of Rs.40,000/- per hectare, the value of the property in question would be less than even Rs.2,00,000/-.

5. In view of the above submissions, which are not controverted, it appears that the petitioner has made out a case of non application of mind by the authorities and, therefore, the impugned order dated 6.11.1999 (Annexure "D") of the Chief Controlling Revenue Authority is required to be set aside.

6. The impugned order dated 24.11.1997 (Annexure "A") passed by the Deputy Collector (Stamp Duty Valuation) at Bhuj and the order dated 6.11.1999 passed by the Chief Controlling Revenue Authority, Gujarat State are hereby quashed and set aside and the respondents are directed to return the document (registration No.2435 presented on 4.5.1995) to the petitioner within one month from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier and to refund the amounts paid by the petitioner pursuant to the impugned order dated 24.11.1997 (Annexure "A") within two months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

7. Rule is made absolute to the aforesaid extent.
There shall be no order as to costs.

September 26, 2000 (M.S. Shah, J.)
sundar/-